

REMARKS

Claims 14-17, 19-29 and 31 are pending in the present application. Claim 14 has been amended and claims 18 and 30 have been cancelled without prejudice to or disclaimer of the subject matter contained therein.

Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the above amendments and the following remarks.

I. Rejection under 35 U.S.C. § 103

Claims 14-31 have been rejected for allegedly being obvious over US 6,964,995 ("Morschhäuser") in view of WO 99/37285 ("Narayanan"). Applicants respectfully traverse the rejection.

The presently claimed composition comprises a copolymer that has a different structure from the copolymers disclosed in either Morschhäuser or Naryanan. The copolymers of Morschhäuser are grafted copolymers which are obtained by copolymerizing the monomers A and B (if desired) with macromonomer C in the presence of a polymeric additive D. "Essential for the invention is that the copolymerization is conducted in the presence of at least one polymeric additive D)..." Morschhäuser, col. 4, lines 64-66. The monomers A and B (if desired) and the macromonomer C are grafted onto the main polymeric additive D thereby forming side chains on the backbone of the main D chain. The side chains themselves contain their own backbones that contribute to the properties of the copolymer. According to Morschhäuser,

[a]s compared with analogous copolymers prepared without the addition of the additives D), those prepared with the addition of additives D) advantageously exhibit a significantly higher viscosity in aqueous solution.

Col. 5, lines 18-21. In contrast, the side chains of the presently claimed copolymer are directly provided by the macromonomer (ii). In other words, the presently claimed is structurally distinct from the graft copolymer of Morschhäuser. The structural differences with regard to Naryanan have been addressed earlier in Applicant's Reply dated March 3, 2008. Thus, even if the two references were combined, one would not arrive at the presently claimed composition and methods of its use. Thus, the Office Action fails to establish a *prima facie* case of obviousness.

Furthermore, it is alleged that because Naryanan teaches an incorporated active ingredient in its distinct copolymer that could be an "active agricultural" (p. 2, Under "The Invention"), one of ordinary skill would have been led to incorporate an active in the graft copolymer of Morschhäuser. However, the graft copolymer of Morschhäuser is disclosed only as having "very good thickening and emulsifying/dispersing properties and, moreover, exhibit a clear appearance." Col. 1, lines 49-51. Additionally, the Office Action has not provided any evidence why one of ordinary skill in the art would have considered the copolymer of Morschhäuser useful in the field of agricultural adjuvants. Thus, the Office Action fails to provide an "articulated reasoning with some rational underpinning to support the legal conclusion" of obviousness. *See, KSR* at 1741. Thus, for this additional reason, the Office Action fails to establish a *prima facie* case of obviousness.


For the foregoing reasons, Applicants request the withdrawal of the rejections and favorable consideration of all pending claims. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

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